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ABSTRACT

This review of the history of school finance litigation highlights various rulings of the courts and the ways that legal strategies have changed over time. Originally the school finance cases were based on the equal protection clause of the Fourteenth Amendment to the U.S. Constitution, the argument being that differences in per pupil spending had to be related to differences in student need. This was rejected by the courts on the grounds that a clear standard for assessing the education needs of pupils did not exist. Litigation strategies then focused on inputs to the education process, arguing that differences in the abilities of school districts to provide resources diminished opportunities in poor school districts. The student-need argument has reemerged more recently, and state school finance systems are being challenged on the basis of failure to structure funding systems to guarantee a thorough and efficient or ample education for all. Reviews of recent court cases are included. (MD)

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27. School Finance Litigation

The Issue

Since 1968, school finance court cases have been filed, heard or decided in 26 state courts. Seventeen state high courts have issued rulings. Of these, eight found school finance systems constitutional; nine found them unconstitutional. Nine state supreme courts recognized education as a fundamental right; eight of those invalidated their school finance laws. Two state courts held that school district property wealth constituted a suspect class. Most state courts have relied on the equal protection guarantees found in state and federal constitutions. In some instances, the courts have relied on clauses found in state constitutions requiring that an "ample," "uniform," "thorough and efficient" or "basic" education be provided.

Legal challenges to state school finance laws involve not one, but a variety of issues. It has been argued that:

- State aid systems that do not break the link between current operating expenditures and local property wealth are discriminatory.
- Disparities in per pupil expenditures relate to disparities in course offerings, class size, instructional

materials and other factors that affect the quality of education.

- Demand for services other than education makes it difficult for school districts to respond to education needs.

- High concentrations of special need pupils place extra demands on school districts to provide high-cost auxiliary services.

This Issuegram reviews the history of school finance litigation, highlighting various rulings of the courts and how the legal strategies have changed over time. It also summarizes recently filed school finance court cases.

Early School Finance Litigation

The original school finance court cases were based on the equal protection clause of the fourteenth amendment to the U.S. Constitution. The plaintiffs argued that variations in per pupil expenditures could only be related to variations in the needs of school children. Such arguments were rejected by the courts, which maintained that no judicially manageable standard existed to assess the education needs of pupils.

It was not long, however, before judicially manageable standards for deciding the constitutionality of school finance systems were developed. The first was "fiscal neutrality," which held that education expenditures could not be related to local school district property wealth. The first test of the standard was in Serrano v. Priest (1971), a landmark case in which plaintiffs charged that the state's school funding system discriminated against children in poor school districts, since the quality of education received in California was a function of the property wealth of individual school districts. The legal strategy was two-fold: that education is a "fundamental right" under the U.S. Constitution and that the state aid system created a "suspect classification" on the basis of local property wealth, thus denying students equal educational opportunity. The idea that education is a constitutionally protected right that must be provided equally was established by the Supreme Court in Brown v. Board of Education (1954).

The strategy used in Serrano proved successful. In 1971 the California Supreme Court held that the existing system of school finance violated the fourteenth amendment to the U.S. Constitution. Specifically, the court found education to be a fundamental right and found that property wealth was a

suspect classification, either one being grounds to declare the finance system unconstitutional. Under equal protection analysis, the court had to use "strict judicial scrutiny" to determine whether the state's existing financing system was necessary to accomplish a compelling state interest. The court rejected the argument that local control of education was the compelling interest for the current state aid system and ordered the legislature to modify the system to break the link between district wealth and expenditures. In accordance with the fiscal neutrality standard, the court ruled the quality of a child's education should be determined by the wealth of the state as a whole. In the year following Serrano, courts in Arizona, Kansas, Minnesota, New Jersey and Texas held that school finance systems in their states violated the fourteenth amendment.

In 1973 the U.S. Supreme Court decision in Rodriguez v. San Antonio Independent School District altered the course of school finance litigation. In December of 1971 a federal district court declared the Texas school finance system unconstitutional. It was appealed to the U.S. Supreme Court which handed down a 5-to-4 decision in 1973 reversing the lower court. The Supreme Court found that education was neither explicitly nor implicitly mentioned in the U.S. Constitution and therefore could not be considered a fundamental right. It rejected the claim that a suspect classification had been established on the basis of property wealth. This obviated the need for strict judicial scrutiny; a more generous "rational basis" test for constitutional compliance was used. Under this test, a state must only demonstrate that a rational basis exists for the chosen method of allocating state aid. Although the court expressly stated that the system of school finance in Texas was unfair, it found no federal constitutional basis for invalidating the school finance law. The Rodriguez case, the only school finance case to reach the U.S. Supreme Court, ended reliance on the fourteenth amendment to invalidate school finance laws.

School Finance Litigation Since 1973

Nearly all school finance court cases since 1973 have turned on state constitutional provisions, equal protection clauses and/or state education clauses, which differ from state to state. In addition, the scope of school finance cases has broadened. For example, plaintiffs now argue that education expenditures can be related neither to property wealth, household income nor factors such as municipal overburden. They argue that state school finance systems must address the needs of special pupil populations and differences in the

purchasing power of the education dollar among school districts. Recent school finance decisions are noted below:

- Courts in Colorado, Georgia and New York have found these state school finance systems constitutional. While these high courts generally agreed that disparities in per pupil expenditures, curriculum, pupil-teacher ratios, materials and the quality of school facilities across districts inhibit equal education opportunity, they have been reluctant to intrude on a legislative prerogative to design systems of state support for public schools or on the tradition of local control over education.

- State courts in Arkansas, West Virginia and Wyoming have declared their school finance systems unconstitutional. In Arkansas, a circuit court found existing disparities in class size and curriculum unacceptable. In West Virginia the trial court ruled that the state had provided neither clearly defined standards nor the funding necessary to satisfy the state's obligation under the state constitution's education clause. In Wyoming, the supreme court declared the state's school finance system unconstitutional without a trial, stating that existing expenditure disparities could be directly related to differences in the quality of education among the state's school children.

State school finance systems continue to be challenged. Cases are in various stages of litigation in Maryland, Massachusetts, Oklahoma and Wisconsin. Recently, cases have been filed in Michigan, New Hampshire, New Jersey and Washington, and the Serrano case in California has been reopened. While the cases in Michigan and New Hampshire represent fresh challenges to existing school finance systems, those in California, New Jersey and Washington are second-round challenges to earlier modifications to state aid systems. The cases in California, Michigan and New Hampshire center on arguments that wealth-related expenditure disparities are unconstitutional. The New Jersey case focuses on the state's constitutional obligation to relate state aid to the needs of pupils and school districts. Finally, the Washington case turns on the definition of a basic education and the state's obligation to support basic education programs.

- East Jackson Public Schools v. State of Michigan. Twenty property-poor school districts claim that Michigan's current school finance system violates both the equal protection and education clauses of the state constitution. They argue that the quality of education

programs offered in Michigan school districts is directly related to the funds available for education. STATUS: Dismissed by circuit court; an appeal is anticipated.

- Jesseman v. New Hampshire. Seven low-wealth school districts seek a ruling that New Hampshire's public school finance system violates the equal protection and education clauses of the state constitution. They allege that an overwhelming reliance on local property taxes to support schools has resulted in an inequitable system of public education in New Hampshire. STATUS: Parties are preparing for trial.

- Abbott v. Burke. Children attending school in four property-poor school districts say that the present school finance system has not remedied the defects of an earlier system found unconstitutional in 1973 by the New Jersey Supreme Court (Robinson v. Cahill). They argue that the existing state aid system does nothing to equalize expenditures between low-spending districts and those above the 65th percentile of per pupil expenditures; that categorical funds for special need pupils are not allocated fairly; that a heavy reliance on local property wealth guarantees dramatic disparities in the quantity and quality of school programs. STATUS: Parties are preparing for trial.

- Serrano v. Priest. The case has been reopened by the plaintiffs, who allege that wealth-related disparities have not been reduced to no more than $100 per pupil, as ordered by the state supreme court in Serrano II (1976). STATUS: Trial is under way.

- Seattle School District No. 1 v. Washington. The Seattle School District, 22 other school districts and various education interest groups claim that the state's current definition of basic education for allocating general state aid is too narrow. They argue that the definition should include services for special need students as well as ancillary services such as transportation, extracurricular activities and maintenance, since all of these are central to the operation of school systems. They say that the legislature has not complied with an early state supreme court decision requiring it to define and fully fund a basic education program for Washington school districts. STATUS: A decision is pending.

Summary

Interestingly, the focus of school finance litigation appears to have come full circle. In the original school finance court cases, the argument made by plaintiffs was that differences in per pupil spending had to be related to differences in student need. This argument was rejected by the courts on the grounds that there did not exist a clear standard for adjudicating the student need argument. Litigation strategies then focused primarily on the inputs (teachers, administrators) to the education process and argued that differences in the abilities of school districts to purchase education resources diminished equal education opportunities for children in poor school districts. In the late seventies and early eighties, the student need argument reemerged and state school finance systems are once again being challenged, sometimes successfully, on the grounds that the state has failed to structure its funding system to guarantee a "thorough and efficient" or "ample" education for all school children.

What to Read

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